

REMARKS

The above Amendments and these Remarks are in reply to the Office Action mailed May 5, 2003.

Currently, claims 49-75 are pending. Applicants have withdrawn claims 1-48. Applicants respectfully request reconsideration of claims 49-75.

I. Summary of the Examiner's Objections

Claims 49 – 60, 66 – 67 and 71 – 75 were rejected under 35 U.S.C. §102(e) as anticipated by Bodnar et al. (U.S. Paten No. 6,295,541.

Claims 61 – 65 were rejected under 35 U.S.C. §103 as obvious in view of Bodnar et al.

II. Summary of the Amendments

The Abstract has been amended.

III. Election

The election with respect to claims 49-75 is confirmed.

IV. Remarks

Rejections Based On Bodnar et al.

All rejections herein are based on Bodnar et al. as a primary reference. Bodnar et al. is only a reference under 35 U.S.C. §102(e). Applicant submits herewith two declarations under 37 C.F.R. §1.131 swearing behind the Bodnar et al. reference.

It is respectfully submitted that the Declarations are proper as showing evidence of conception well prior to December 16, 1997, the earliest priority date of Bodnar et al., as well as diligence in reducing the invention to practice after conception.

Bodnar et al. issued on September 25, 2001, after the filing date of the present application and is therefore only available as a reference under 35 USC §102(e). Bodnar et al. was filed

August 18, 1998, but claims priority to provisional application Serial No. 60/069,731, filed December 16, 1997, and entitled DATA PROCESSING ENVIRONMENT WITH SYNCHRONIZATION METHODS EMPLOYING A UNIFICATION DATABASE; Serial No. 60/094,972, filed July 31, 1998, and entitled SYSTEM AND METHODS FOR SYNCHRONIZING TWO OR MORE DATASETS; and Serial No. 60/094,824, filed July 31, 1998, and entitled DATA PROCESSING ENVIRONMENT WITH METHODS PROVIDING CONTEMPORANEOUS SYNCHRONIZATION OF TWO OR MORE CLIENTS. As noted in the MPEP SECTION 706.02:

A rejection based on 35 U.S.C. 102(e) can be overcome by:

(D) Filing an affidavit or declaration under 37 CFR 1.131 showing prior invention, if the reference is not a U.S. patent (or application in the case of a provisional rejection) claiming the same patentable invention as defined in 37 CFR 1.601(n).

A Section 1.131 affidavit is proper in this instance because Bodnar et al. claims methods and systems directed to “an arbitrary number of multiple datasets residing on different devices”, “a reference dataset that is used to store a super-set of most-recent data from all of the designated datasets” and “synchronizing all of the designated datasets”, while the present application is directed to “a data package containing instructions for manipulating user data” and “code for instructing a software agent to alter data in a data structure”.

Hence Bodnar et al. and the present application do not claim the same invention.

Submitted herewith are:

- (1) Substitute Declaration For Patent Application (correcting the erroneous omission of Richard Onyon as an inventor);
- (2) Consent of Assignee to Correction of Inventorship Pursuant to 37 CFR §1.48 to add Richard Onyon; and
- (3) Declaration of Richard Onyon in Support of Petition to Correct Inventorship, and
- (4) Declaration Of Richard M. Onyon Pursuant To 37 C.F.R. §1.131 and Declaration Of Leighton Ridgard Pursuant To 37 C.F.R. §1.131, each setting forth facts establishing a date of invention prior to the priority date of December 16, 1997.

It is respectfully submitted that these affidavits under 37 C.F.R. §1.131 set forth facts showing possession of the invention sufficient to overcome Bodnar et al. as a reference.

As set forth in the attached Declarations of Mr. Onyon and Mr. Ridgard, the invention recited in the claims of the present invention was conceived of earlier than the earliest possible date of Bodnar et al. as a prior art reference, and the inventors were diligent from the date of conception to the reduction to practice of the invention (as evidenced by prototypes of the invention). It is therefore respectfully submitted that the rejection of the claims over Bodnar et al. is overcome and the application is now in condition for allowance. Such allowance is respectfully requested.

Based on the Declarations and these remarks, reconsideration of claims 49-75 is respectfully requested.

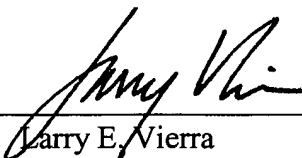
The Examiner's prompt attention to this matter is greatly appreciated. Should further questions remain, the Examiner is invited to contact the undersigned attorney by telephone.

Enclosed is a PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. § 1.136 for extending the time to respond up to and including today, September 17, 2003.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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